

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DARRYL GILLIAM, 01-A-1478,

Plaintiff,

v.

COMMISSIONER GLENN S. GOORD, et al.,

Defendants.

DECISION & ORDER

05-CV-6429P

Plaintiff's second request for appointment of counsel is hereby denied in light of the factors to be considered in deciding whether or not to assign counsel, *see Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997); *see also Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986).

Assignment of counsel in this matter is clearly within the judge's discretion. *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984). Upon review of the file, assignment of counsel is not warranted at this time. By the Order filed June 15, 2006, the legal issues in the action have been narrowed, and the motion to supplement the complaint with additional claims was denied. Moreover, while the Court has directed service on the remaining defendants, the U. S. Marshal has not yet received the necessary paperwork from plaintiff in order to perfect service, and, therefore, issue has not yet been joined.

Based on this review, plaintiff's motion for appointment of counsel is denied without prejudice at this time. It is the plaintiff's responsibility to retain an attorney or press forward with

this lawsuit *pro se*. 28 U.S.C. § 1654. Plaintiff is reminded to review booklet entitled “The Pro Se Litigation Guidelines.”

IT IS SO ORDERED.

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
June 22, 2006.